

**MINUTE ENTRY
FALLON, J.
July 24, 2002**

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

IN RE: PROPULSID : **MDL NO. 1355**
PRODUCTS LIABILITY LITIGATION : **SECTION "L"**
: **JUDGE FALLON**
..... :

THIS DOCUMENT RELATES TO ALL CASES:

A pretrial status conference was held July 18, 2002 at 9:00 a.m. in the courtroom of Judge Eldon E. Fallon. In attendance for Plaintiffs were Stephen Murray, Leonard Davis, Arnold Levin, J. Bradley Duhe, James Dugan, A.J. Rebennack, Lori Brown, Richard Arsenault, Jim Capritz, Carlos Prietto, and Larry Morris. In attendance for the Defendants were James Irwin, Thomas Campion, Monique Garsaud, Lori Morris, and Ike Ryan, At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 16 of Plaintiffs' and Defendants' Liaison Counsel.

1. Update to Rolling Document Production and Electronic Document Production

Defense Liaison Counsel ("DLC") informed the Court that as of July 2002, approximately 6,602,101 pages of documents have been produced. Plaintiffs' Liaison Counsel ("PLC") advised the Court that he is awaiting receipt of the e-mail objective coding.

2. State Liaison Counsel

PLC informed the Court that attorney Walter Dumas has resigned as a member of the State Liaison Committee ("SLC"). On the request of PLC and the SLC, the Court appointed Sam Davis as Mr. Dumas's replacement.

3. Plaintiff Profile Forms and Authorizations

As of July 15, 2002, Defendants had received 1,371 Patient Profile Forms ("PPFs"), 99 are currently overdue, and 2 PPFs will become due within thirty (30) days. The Court directed DLC to take action to dismiss those claimants who have not provided PPF's in accordance with Pretrial Order No. 9.

The Court also directed DLC to advise the Court within one week of its recommendations concerning the Motion to Withdraw filed in the *Anthony Scott v. Janssen Pharmaceutica, Inc.* case (02-279).

4. Subpoena to FDA

PLC informed the Court that he is working with FDA to resolve what appears to be gaps in the bates numbers of material provided to PSC pursuant to the subpoena duces tecum served on the FDA.

5. Service List of Attorneys

DLC provided the Court with an updated list of attorneys in the MDL case as well as related state court cases.

6. Motions to Dismiss

The Court ordered that the following motions will be taken under submission on August 23, 2002 and decided on the briefs without oral argument:

- (a) Motion to Dismiss filed by defendants Stephanie Newport and Walgreen

Louisiana Co., Inc. in *Janet Beo, et al. v. Stephanie Newport, et al.* (01-CV-600)

(b) Motion to Dismiss filed by defendant Rite Aid of West Virginia, Inc. in *Virdell Banks v. Johnson & Johnson, et al.* (00-CV-2788)

(c) Motion to Dismiss filed by defendant Rite Aid of West Virginia, Inc. in *Lisa Skeens, et al. v. Johnson & Johnson, et al.* (00-CV-2787)

7. Ongoing Studies/Subpoena to BevGlen

PLC informed the Court that it has asked defendants to declassify the clinical and non-clinical reports of CIS-NED 32 as well as more than 800 clinical studies which were identified in defendants' response for production of documents dated May 3, 2002. The Court ordered the PLC to present this issue in the form of a motion which will be set for hearing on August 2, 2002, to be decided on the briefs, without oral argument.

8. Plaintiffs' and Defendants' Respective Requests for Production of Documents

On July 16, 2002, PLC has filed a Motion to Compel the production by defendants of all information requested in PSC's Request for Production No. 2 regarding Norcisapride, the major metabolite of Cisapride. The Court ordered that the Motion to Compel be set for hearing at the next monthly status conference on August 23, 2002, at 9:00 a.m. with oral argument.

PLC also informed the Court that the PSC has requested from the defendants all documents concerning indemnity agreements entered into by Johnson & Johnson, Co., Janssen Pharmaceutica, Inc., and the numerous pharmacy defendants. The Court ordered DLC to produce one such indemnity agreement to the Court within one week for in camera review in order to rule on the matter.

9. Motion for Class Certification

DLC and PLC recommended to the Court that the matter of the PSC's Motion to Reconsider this Court's Order denying certification of a nationwide class for medical monitoring not be taken up until production of e-mail information is completed.

10. Deposition Procedure

DLC and PLC submitted to the Court a Joint Motion and Order to Supplement Pretrial Order No. 7. The proposed supplement would establish guidelines for the handling of deposition exhibits.

11. Trial of Louisiana Cases

DLC indicated that he has provided PLC with a draft of a pre-trial order regarding those cases originating in the U.S. District Court for the Eastern District of Louisiana. The Court advised the parties that several such cases will be set for trial in November and December of 2002. Specifically, the Court has reserved the following weeks for trial: November 12 - 15, 2002; November 18 - 22, 2002; December 2 - 6, 2002; December 9 - 13, 2002; and December 16 - 20, 2002.

The Court ordered that State Liaison Counsel Bob Wright shall within two weeks provide the Court with a report indicating which cases originating in the U.S. District Court for the Eastern District of Louisiana will be ready for trial on the dates mentioned above.

12. Settlement Negotiations

PLC and DLC informed the Court that they have agreed on the appointment of Patrick A. Juneau as their mediator to assist in settlement negotiations. The parties will provide the Court with an order appointing Mr. Juneau and setting any necessary parameters or protocols for mediation.

13. Trust Account

The parties have met with representatives of the Whitney Bank regarding the establishment of a trust account. PLC informed the Court that there are questions regarding the maintenance of records and the associated costs. The Court directed PLC to bring the matter to the Court's attention one week prior to the next status conference for resolution.

14. Scheduling of Next Pretrial Status Conference

The next pretrial status conference will be held on Friday, August 23, 2002 at 9:00 a.m.